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**FEDERAL ELECTION COMMISSION**  
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**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

MUR: 5883  
DATE COMPLAINT FILED: November 20, 2006  
DATES OF NOTIFICATION: November 28, 2006;  
June 6, 2007  
LAST RESPONSE RECEIVED: N/A  
DATE ACTIVATED: May 1, 2007  
EXPIRATION OF SOL: October 18, 2011

COMPLAINANT: Citizens Committee for the Right to Keep  
and Bear Arms

RESPONDENTS: Brady Campaign to Prevent Gun Violence  
Mark Ingram

RELEVANT STATUTES: 2 U.S.C. § 431(8)(A)  
2 U.S.C. § 441b  
11 C.F.R. § 114.4

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: Internal Revenue Service

**I. INTRODUCTION**

The complaint in this matter involves an allegation that the Brady Campaign to Prevent Gun Violence ("the Brady Campaign") violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by making express advocacy communications to the general public. Specifically, the complaint alleges that press releases from the Brady Campaign announcing its endorsement of various federal candidates violated the Act's prohibitions against corporate expenditures. In addition to distributing press releases announcing the endorsements, it appears that the Brady Campaign staffers attended at least two press conferences with candidates where

1 they announced the Brady Campaign's endorsement of the candidate. As discussed more fully  
2 below, while it appears that the Brady Campaign complied with the requirements relating to the  
3 distribution of press releases announcing candidate endorsements, it appears that the Brady  
4 Campaign may have coordinated the public announcement of its endorsements with at least two  
5 candidates. Accordingly, we recommend that the Commission find reason to believe that the  
6 Brady Campaign violated 2 U.S.C. § 441b and 11 C.F.R. § 114.4(c)(6)(ii) in connection with the  
7 press conferences. With respect to respondent Mark Ingram, as the complaint does not include  
8 any allegations relating to Mr. Ingram personally, or in his capacity as treasurer of the separate  
9 segregated fund, we recommend that the Commission dismiss the allegations and close the file as  
10 to Mr. Ingram.<sup>1</sup>

11 **II. FACTS**

12 The Brady Campaign is a 501(c)(4) non-profit corporation affiliated with the Brady  
13 Center to Prevent Gun Violence ("the Brady Center"), a 501(c)(3) non-profit organization which  
14 is not a respondent in this matter. The Brady Campaign to Prevent Gun Violence – Voter  
15 Education Fund ("the Brady Committee") is a separate segregated fund connected to the Brady  
16 Campaign. Paul Helmke is the president of both the Brady Campaign and the Brady Center. The  
17 website for the Brady Campaign sets out the following "Mission Statement":

18 As the largest national, non-partisan, grassroots organization leading the fight to prevent  
19 gun violence, the Brady Campaign, the Million Mom March and the Brady Center are  
20 dedicated to creating an America free from gun violence, where all Americans are safe at  
21 home, at school, at work, and in their communities. The Brady Campaign, the Million  
22 Mom March and the Brady Center believe that a safer America can be achieved without  
23 banning all guns.

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<sup>1</sup> Mark Ingram is the treasurer of the Brady Campaign to Prevent Gun Violence – Voter Education Fund, the separate segregated fund connected to the Brady Campaign to Prevent Gun Violence (the "Brady Campaign"), the 501(c)(4) organization that is the primary respondent in this matter. Mr. Ingram has also served as the treasurer of the Brady Campaign, although it is unclear if he continues to serve in that capacity at this time. Mr. Ingram was inadvertently notified of the complaint in this matter and generated as a respondent.

1 [www.bradycampaign.org/about/mission.php](http://www.bradycampaign.org/about/mission.php).

2       The Complainant in this matter asks the Commission to investigate whether the Brady  
3 Campaign violated the Act by "expressly advocating the election of various candidates to federal  
4 office in communications to the general public." Complaint at 1. The Complaint attaches press  
5 releases from the Brady Campaign announcing its endorsements of candidates for the 2006  
6 election to support its allegations that the Brady Campaign "engaged in prohibited activities,  
7 including electioneering on behalf of federal candidates" by issuing these press releases beyond  
8 its membership to the general public. Complaint at 2. As noted in the complaint, the press  
9 releases announcing the Brady Campaign's endorsements were distributed over U.S. Newswire, a  
10 news and press release distribution service. The Brady Campaign did not respond to the  
11 complaint.

12       Although not specifically alleged in the complaint, it appears that in addition to  
13 distributing press releases, the Brady Campaign also publicized its candidate endorsements  
14 through appearances at press conferences. The organization's representatives attended press  
15 conferences with at least two of the candidates it endorsed to announce the endorsement of the  
16 candidate.

17       On October 16, 2006, Paul Helmke, the president of the Brady Campaign, appeared at a  
18 press conference in Lombard, Illinois with Tammy Duckworth, a candidate for the House of  
19 Representatives in the Illinois' Sixth Congressional District, where Duckworth discussed her  
20 support for gun control legislation support by the Brady Campaign. See John Biermer and  
21 Christi Parsons, *Gun Law Heats Up Race For Congress: Roskam Challenged on Assault*  
22 *Weapons*, Chicago Tribune, Oct. 11, 2006. The Brady Campaign's press release on its  
23 endorsement of Duckworth confirms that Helmke announced the endorsement of Duckworth at

1 the press conference. See Press Release, Brady Campaign to Prevent Gun Violence, Brady  
2 Campaign Endorsed Tammy Duckworth For Congress (Oct. 11, 2006).

3 It also appears that, on or about that same day, a regional director of the Brady Campaign,  
4 Chad Ramsey, attended a press conference in Upper Darby, Pennsylvania with Joe Sestak, a  
5 candidate for the House of Representatives in Pennsylvania's Seventh Congressional District, to  
6 announce the Brady Campaign's endorsement of Sestak. See Kathleen Carey, *Sestak Gains*  
7 *Brady Campaign Endorsement*, Delaware County Times, Oct. 11, 2006; Press Release, Brady  
8 Campaign to Prevent Gun Violence, Brady Campaign Endorses Joe Sestak For Congress (Oct.  
9 11, 2006).

10 In its 2006 disclosure reports, the Brady Committee reported in-kind contributions to both  
11 the Duckworth and Sestak congressional campaigns in late October, approximately two weeks  
12 after the events in question. The Brady Committee reported three in-kind contributions to  
13 Friends of Tammy Duckworth: an October 24, 2006 disbursement in the amount of \$115.38 to  
14 Jennifer Bishop for "In Kind contribution - salary," an October 24, 2006 disbursement in the  
15 amount of \$248.30 to American Eagle Commuter Service for "In Kind Travel," and an October  
16 24, 2006 disbursement in the amount of \$498.17 to Paul Helmke for "In Kind contribution -  
17 salary." The Brady Committee also reported two in-kind contributions to Sestak for Congress:  
18 two October 24, 2006 disbursements to Chad Ramsey, one in the amount of \$240.30 for "In Kind  
19 contribution - salary" and another in the amount of \$141.83 for "In Kind contribution - travel  
20 expense." Because the Brady Campaign did not respond to the complaint, it is unclear whether  
21 these Brady Committee disbursements were made in connection with the Brady Campaign  
22 representatives' attendance at the October 10, 2006 press conferences with Duckworth and  
23 Sestak or in connection with another event.

1    **III.    ANALYSIS**

2            The Act provides that it is unlawful for any corporation to make a contribution or  
3    expenditure in connection with a federal election. *See* 2 U.S.C. § 441b(a). Likewise, candidates  
4    and their authorized committees are prohibited from accepting contributions from corporations.

5    *Id.* The term "contribution" includes anything of value made by any person for the purpose of  
6    influencing any election for federal office. *See* 2 U.S.C. §§ 431(8)(A)(i) and 441b(b)(2).

7            Despite the general prohibition on corporate expenditures, the regulations allow a  
8    corporation to endorse a federal candidate and publicly announce such an endorsement through a  
9    press release and press conference as long as the disbursements related to such a press release or  
10   press conference are *de minimis*. *See* 11 C.F.R. § 114.4(c)(6)(i). The disbursements are  
11   considered *de minimis* if the press release and notice of the press conference is distributed only to  
12   press entities that the corporation normally contacts. *See id.* The regulations, however, also  
13   specify that the public announcement of the endorsement may not be coordinated with the  
14   candidate, the candidate's agent's or the candidate's authorized committee. *See* 11 C.F.R.  
15   § 114.4(c)(6)(ii).

16           With respect to the press releases issued by the Brady Campaign announcing its  
17   endorsement of various federal candidates, it appears that the Brady Campaign complied with the  
18   regulations for communicating these endorsements to the general public. As noted in the  
19   complaint, the press releases were sent over U.S. Newswire, which appears to be the same  
20   service that the Brady Campaign uses to issue its press releases, including press releases that do  
21   not contain candidate endorsements. The complaint does not allege any other information to  
22   support a conclusion that the Brady Campaign incurred more than *de minimis* costs to  
23   communicate these endorsements to the general public. Accordingly, it appears that the Brady

1 Campaign complied with the applicable regulations in issuing the press releases at issue in the  
2 complaint.

3 The Brady Campaign, however, appears to have coordinated the announcement of its  
4 endorsement of Duckworth and Sestak with the candidates in violation of 11 C.F.R.  
5 § 114.4(c)(6)(ii). The Brady Campaign's press release confirms that Paul Helmke announced the  
6 Brady Campaign's endorsement of Duckworth at a press conference attended by Duckworth.  
7 Chad Ramsey, a regional director of the Brady Campaign, reportedly announced the endorsement  
8 of Joe Sestak at a press conference attended by Sestak. By not complying the regulatory  
9 procedures for endorsing candidates through press conferences, the Brady Campaign appears to  
10 have violated 11 C.F.R. § 114.4(c)(6)(ii). The Brady Campaign may have also made  
11 expenditures in connection with the press conference that would constitute prohibited in-kind  
12 contributions to Friends of Tammy Duckworth and Sestak for Congress, the candidates'  
13 authorized committees, in violation of 2 U.S.C. § 441b. Although the Brady Committee reported  
14 in-kind contributions to Friends of Tammy Duckworth and Sestak for Congress, the  
15 disbursements were made several weeks after the date of the press conferences and it is not clear  
16 whether the disbursements were made in connection with Brady Campaign's role in the  
17 Duckworth and Sestak press conferences announcing the endorsements or for another purpose.  
18 Accordingly, we recommend that the Commission find that there is reason to believe that the  
19 Brady Campaign violated 2 U.S.C. § 441b and 11 C.F.R. § 114.4(c)(6) in connection with the  
20 press conferences.

21 The Commission previously addressed the Brady Campaign's appearances at  
22 endorsement press conferences in MUR 5158, which involved attendance by Sarah Brady, in her  
23 capacity as the director of the Brady Campaign, at press conferences announcing the Brady

1 Campaign's endorsement of Bill Nelson and Charles Robb. In that matter, the Commission  
2 found reason to believe that the Brady Campaign violated 2 U.S.C. § 441b and 11 C.F.R.  
3 § 114.4(c)(6) in connection with the Nelson and Robb press conferences by coordinating the  
4 press conference appearances with the candidates. The Brady Campaign ultimately signed a  
5 conciliation agreement admitting to a violation of 2 U.S.C. § 441b in connection with Sarah  
6 Brady's attendance at the Nelson press conference and paid a civil penalty of \$12,000 to settle  
7 this and other violations of the Act.

8 Given the Brady Campaign's awareness of the press conference regulations stemming  
9 from MUR 5158, there is a basis for the Commission to conclude that the Brady Campaign  
10 knowingly and willfully violated 2 U.S.C. § 441b and 11 C.F.R. § 114.4(c)(6) in connection with  
11 the press conferences. However, because it is unclear whether the expenditures reported by the  
12 Brady Committee were made connection with the Brady Campaign's appearances at the  
13 Duckworth and Sestak announcement press conferences, we are not recommending that the  
14 Commission make knowing and willful findings at this time. To the extent that the Brady  
15 Campaign, in its response to a reason to believe finding or in connection with the investigation,  
16 confirms that the Brady Campaign paid for the salary or travel expenses of any Brady Campaign  
17 employees in connection with the press conferences, we will make the appropriate knowing and  
18 willful recommendations to the Commission at a later date.

19 **IV. PROPOSED DISCOVERY**

20 Because the Brady Campaign did not submit a response to the complaint and the  
21 available information is not sufficient to quantify whether, and to what extent, the Brady  
22 Campaign violated the Act and regulations in connection with the press conferences, we believe  
23 a limited investigation is necessary to establish the extent of the potential violation. Therefore,

we are seeking authorization to issue appropriate interrogatories, document subpoenas and deposition subpoenas to respondents and witnesses in this matter.

Accordingly, we request that the Commission authorize the use of compulsory process in this matter, including the issuance of appropriate interrogatories, document subpoenas and deposition subpoenas, as necessary.

**V. RECOMMENDATIONS**

1. Find reason to believe that the Brady Campaign to Prevent Gun Violence violated 2 U.S.C. § 441b and 11 C.F.R. § 114.4(c)(6) in connection with the press conferences;
2. Authorize the use of compulsory process in this matter, including the issuance of appropriate interrogatories, document subpoenas and deposition subpoenas, as necessary;
3. Dismiss the allegations and close the file as to Mark Ingram;
4. Approve the attached Factual and Legal Analysis; and
5. Approve the appropriate letters.


Thomasenia P. Duncan  
General Counsel

Ann Marie Terzaken  
Acting Associate General Counsel  
for Enforcement

Date

7/20/07


BY:

  
Mark D. Shonkwiler  
Assistant General Counsel



MUR 5883  
First General Counsel's Report

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Lynn Y. Tran  
Attorney

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